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LEGAL ABILITY RATINGS AND THE FAIR CREDIT REPORTING ACT

Since 1938, law lists¹ have been regulated by the Standing Committee on Law Lists of the American Bar Association.² Such lists are an exception to the rule making it unethical for lawyers to advertise or solicit business.³ The use of law lists as an approved media for informing the public, particularly forwarders of legal matters, of the lawyer's availability for professional employment is the intended scope of this exception.⁴ The Code of Professional Responsibility provides that it is ethical for lawyers to publish their professional cards, containing biographical and other data, in reputable⁵ law lists. Any publisher of a law list which has received a certificate of compliance⁶ from the Standing Committee on Law Lists may rate lawyers "in a manner not disapproved of by the committee."⁷ The American Bar Association Committee on Professional Ethics has stated that proper

¹ A law list is defined by the Standing Committee on Law Lists of the A.B.A. as "[e]very list of attorneys at law, legal directory or other instrumentality maintained or published primarily for the purpose of circulating or presenting the name or names of any attorney or attorneys at law as probably available for professional employment. . . ." 67 A.B.A. REP. 286 (1942).

² A five man Special Committee on Law Lists was appointed in 1935 to investigate the need to regulate the law list business. In 1937 the Committee recommended to the House of Delegates of the A.B.A. that its "Rules and Standards as to Law Lists" be adopted. The House of Delegates in 1937 adopted these Rules and Standards as to Law Lists and appointed a new five man Special Committee to "consider and pass on applications by law lists for approval." 62 A.B.A. REP. 1136 (1937). This Special Committee on Law Lists was made a Standing Committee of the A.B.A. in 1949. 74 A.B.A. REP. 30 (1949). See generally Morris, *Law Lists and the Standing Committee on Law Lists*, 7 PRAC. LAW. 44 (May 1961); Hayes, *What You Should Know About Law Lists*, 3 STUD. LAW. 13 (April 1958).

³ "The traditional ban against advertising by lawyers, which is subject to certain limited exceptions, is rooted in public interest." ABA CODE OF PROFESSIONAL RESPONSIBILITY EC 2-9. The exception to this general rule permits "a listing in a reputable law list." ABA CODE OF PROFESSIONAL RESPONSIBILITY DR 2-106(A) (6). See also H. DRINKER, *LEGAL ETHICS* 265-73 (1953); Luther, *Legal Ethics: The Problem of Solicitation*, 44 A.B.A.J. 554 (1958); Comment, *A Critical Analysis of Rules Against Solicitation by Lawyers*, 25 U. CHI. L. REV. 676 (1958).

⁴ ABA CODE OF PROFESSIONAL RESPONSIBILITY DR 2-106(A) (6).

⁵ *Id.* "A law list is exclusively established to be reputable if it is certified by the American Bar Association as being in compliance with its rules and standards." For examples of law lists deemed not to be reputable see ABA COMM. ON PROFESSIONAL ETHICS, OPINIONS, No. 276 (1947).

⁶ Certificates of Compliance are issued annually by the A.B.A. Standing Committee on Law Lists to those publishers of law lists who comply with the Rules and Standards. 67 A.B.A. REP. 286 (1942). The Rules and Standards as to Law Lists were adopted in 1937 and amended in 1941, 1944, and 1969. 62 A.B.A. REP. 1136 (1937); 66 A.B.A. REP. 316-17 (1941); 69 A.B.A. REP. 490-91 (1944); 94 A.B.A. REP. 478 (1969).

⁷ ABA RULES AND STANDARDS AS TO LAW LISTS, R. 4. Rule 4 was added to the Rules and Standards in October, 1941. 66 A.B.A. REP. 317 (1941).

considerations upon which to rate lawyers are legal ability, education, financial worth, and promptness in paying bills.⁸

Of the sixty-six law lists issued certificates of compliance for 1972, only the *Martindale-Hubbell Law Directory* rates lawyers.⁹ This comment will examine the economic importance to individual attorneys of *Martindale-Hubbell's* legal ability ratings, analyze the method of rating, evaluate the remedies available to attorneys who are dissatisfied with their ratings, and suggest viable alternatives to legal ability ratings.

The Economic Importance of Legal Ability Ratings

There is no accurate estimate of the amount of legal business currently referred to attorneys through listings in *Martindale-Hubbell* and similar publications. In 1938, while studying the need to regulate the publication of law lists, the Special Committee on Law Lists noted:

[A] fair estimate of the actual amount forwarded over all commercial law lists alone in 1936 approximated \$90,000,000. No estimate of the volume of business forwarded to attorneys in non-commercial directories is possible, but it is reasonably safe to say that in dollars and cents it is very much larger than that which flows over the commercial lists.¹⁰

Even today, this would represent a substantial quantity of legal business, a fact which is even more noteworthy since the national income is now thirteen times greater than in 1936.¹¹

A significant portion of the legal business forwarded to listed attorneys is affected either directly or indirectly by the legal ability ratings found in *Martindale-Hubbell*.¹² First, many directories restrict their listings to one lawyer for small towns, while in larger cities multiple listings are common. Apparently, publishers of legal directories commonly refer to the *Martindale-Hubbell* ratings to determine whether a particular attorney is qualified for listing.¹³ Secondly, since

⁸ ABA COMM. ON PROFESSIONAL ETHICS, INFORMAL OPINIONS, NO. 171 [unpublished opinion appearing in part in AMERICAN BAR ASSOCIATION, OPINIONS ON PROFESSIONAL ETHICS 101 (1967)].

⁹ For a listing of those law lists issued a certificate of compliance for 1972, see 96 A.B.A. REP. Appendix at 46 (1971).

¹⁰ 63 A.B.A. REP. 442 (1938).

¹¹ The gross national product in 1936 was 82.7 billion dollars. DEP'T OF COMMERCE, HISTORICAL STATISTICS OF THE UNITED STATES, COLONIAL TIMES TO 1937, at 139 (1961). The gross national product in 1972 is estimated to be 1,046.8 billion dollars. DEP'T OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 1972, at 313 (1972).

¹² See Krause, *Hidden Values for the Lawyer in Law List Service*, 50 COM. L.J. 263 (1945).

¹³ Harnsberger, *Publication of Specialties and Legal Ability Ratings in Law Lists*, 49 A.B.A.J. 33, 35 (1963) [hereinafter cited as Harnsberger].

a corporation or law firm requiring representation in a distant community will attempt to secure the best legal service available, attorneys with the highest ratings in each locality will probably receive the bulk of legal business referred by *Martindale-Hubbell* subscribers.

For an attorney seeking to expand his practice, the importance of a good rating in *Martindale-Hubbell* cannot be overemphasized. Not only may he expect to realize immediate economic gain through commissions and fees, but the handling of referred matters may also result in new sources of business since it provides the attorney with an excellent opportunity to demonstrate his legal acumen before both the court and the parties to the litigation. On the other hand, an attorney who is not rated by *Martindale-Hubbell* or one who has only an average rating cannot expect to receive a significant amount of referral business from sources outside his immediate geographical area. Without a rating, the forwarder simply has no basis upon which to judge the attorney's competence to handle its legal affairs.

How Martindale-Hubbell Determines Its Legal Ratings

The *Martindale-Hubbell Law Directory* is published annually in five volumes. Volumes I, II, III and IV¹⁴ are divided into sections: a geographical section and a biographical section. In the biographical section "professional cards"¹⁵ of eligible attorneys, those who qualify for a "very high" recommendation rating, are published for a fee.¹⁶ The geographical section is a roster by location which lists, without

¹⁴ Volume V of the 1973 edition of the *Martindale-Hubbell Law Directory* is a digest of state laws and U.S. Copyright, Patent, and Trademark laws. Many of the Uniform and Model Acts including the complete text of the Uniform Commercial Code are also printed in Volume V.

¹⁵ An exception to the general rule making it unethical for attorneys to advertise is made which allows lawyers to have "brief biographical and other informative data" reprinted in a reputable law list. The published data may include: name, including name of law firm and names of professional associates; addresses and telephone numbers; one or more fields of law in which the lawyer or law firm concentrates; a statement that practice is limited to one or more fields of law; a statement that the lawyer or law firm specializes in a particular field of law practice; date and place of birth; date and place of admission to the bar of state and federal courts; schools attended, with dates of graduation, degrees, and other scholastic distinctions; public or quasi-public offices; military service; posts of honor; legal authorships; legal teaching positions; memberships, offices, committee assignments, and section memberships in bar associations; membership and offices in legal fraternities and legal societies; technical and professional licenses; memberships in scientific, technical and professional associations and societies; foreign language ability; names and addresses of references, and, with their consent, names of clients regularly represented. ABA CODE OF PROFESSIONAL ETHICS DR 2-106(A)(6).

¹⁶ Harnsberger, *supra* note 13, at 35. See also MARTINDALE-HUBBELL LAW DIRECTORY, Vol. I, at v (1973) where it is stated that "all cards are published only for subscribers whose eligibility has been predetermined."

charge, every attorney in the United States except those who have expressly requested to be excluded. Rating symbols appear after the names of many attorneys. These ratings are interpreted by referring to the "Confidential Key" table printed on the inside front cover of each volume. The letters "a" (very high), "b" (high), and "c" (fair) denote the listed attorney's legal ability. A lawyer first becomes eligible for the "c" rating after practicing three years. Five years of practice are required for the "b" rating while at least ten years of practice are necessary for a rating of "a." In addition to length of practice, age, and practical experience, "other relevant qualifications" are considered in rating legal ability.¹⁷ The letter "v" means that a lawyer's recommendations from associates are "very high." The letters "g" (good), "f" (fair), and "m" (medium) rate a lawyer for promptness in paying bills.

Martindale-Hubbell also attempts to estimate the financial worth of rated attorneys but admits it is "difficult to obtain reliable estimates, therefore the ratings given must be considered as approximations only."¹⁸ The ratings consist of a sliding numerical scale from 1 to 7 with the numeral one indicating assets of less than \$5,000, and the numeral seven, showing assets of over \$100,000. Ratings for financial worth and promptness in paying bills are included only for attorneys who live in communities with populations of less than 34,000.¹⁹ In larger cities, unfavorable information in this category is considered in determining the "v" recommendations ratings.²⁰ Since it is *Martindale-Hubbell's* policy to rate only those attorneys whose recommendations qualify for a "v" rating, not every attorney is rated.²¹ Although the "Confidential Key" cautions that "absence of rating characters should not be construed as unfavorable,"²² such inferences inevitably will be drawn from the lack of a rating or, at least, prejudice will exist in favor of those attorneys who are highly rated.

Such a potentially tremendous economic advantage accrues to lawyers with high ratings that every practitioner should be concerned about the source and content of the information upon which his rating is based. The publishers of *Martindale-Hubbell*, however, consider this information confidential,²³ explaining that "ratings are based upon the standard of ability for the place where a lawyer practices"²⁴

¹⁷ MARTINDALE-HUBBELL LAW DIRECTORY, Vol. I, Confidential Key (1973).

¹⁸ *Id.*

¹⁹ Harnsberger, *supra* note 13, at 36.

²⁰ *Id.*

²¹ *Id.* at 35.

²² MARTINDALE-HUBBELL LAW DIRECTORY, *supra* note 17.

²³ *Id.*

²⁴ *Id.*

and that "we endeavor to reflect a consensus of reliable opinion obtained from various sources deemed to be dependable."²⁵ The "Recommendations" rating is generally considered to be derived from information compiled from associates, judges, court officials, and local businessmen. Ratings of "Promptness in Paying Bills" and "Financial Worth" are almost certainly the result of information supplied by credit reporting agencies. However, since *Martindale-Hubbell* refuses to divulge its sources, it is impossible to state unequivocally that these are, in fact, the true sources of such ratings.

Problems Created as a Result of Martindale-Hubbell's Confidential Rating System

Ratings are undoubtedly an asset to the established attorney with an already lucrative practice. They are less important but still advantageous to the attorney with less than ten years of practice who has qualified for a "v" recommendations rating. However, to the attorney who fails to qualify, ratings may be a handicap.

Any business that specializes in collecting and distilling vast amounts of detailed information is vulnerable to errors of omission or commission in transmitting raw data into records. Since the *Martindale-Hubbell* listing includes all attorneys in the United States, mistakes could occur. Ratings may be inadvertently switched between attorneys with the same name living in the same city. Recommendations from associates for one attorney could be placed in the dossier of another attorney with the same name. This is not to say that these errors occur often or even on a regular basis, but the fact is they *may* occur and could seriously hamper the career of the attorney affected.

The accuracy of the information collected as a basis for assigning ratings—whether based on reports from credit agencies, personal reporting agencies, local businessmen, judges, or the rated lawyer's associates—is subject to interpretation. It must be asked who makes these interpretations and how the accuracy of the sources is determined. The publishers of *Martindale-Hubbell* do not fabricate the information they utilize to make a rating; they must go to sources they consider dependable. Therefore, the accuracy of their ratings is dependent upon these sources. The recommendations they solicit may reflect the subjective and even distorted views of certain associates. Furthermore, as noted above, information on promptness in paying bills is included in determining the "Recommendations" for attorneys residing in communities with fewer than 34,000 inhabitants. This is the type of in-

²⁵ *Id.*

formation usually supplied by credit reporting agencies. The multiple occasions for error in these operations have been well documented.²⁶

The possibility of error would be of little concern if there were proper mechanisms to correct those errors. However, *Martindale-Hubbell* is involved in a judgmental process, subject to error, without providing the barest rudiments of procedural due process to those who may suffer from its mistakes. Most of its recommendations are based on hearsay, but *Martindale-Hubbell's* policy of strict secrecy regarding its files makes it difficult for an attorney to exercise his rights intelligently with respect to his rating. In an age of myriad records, you are what your file says you are, and unless one has access to the information which controls his ability to earn a living, he may be effectively deprived of his constitutional rights to life, liberty, and property. Why does *Martindale-Hubbell* insist on keeping secret the information in its files? The answer is obvious; it is protecting the sources of its information. It is doubtful that any attorney, judge, or court official would agree to provide recommendations, whether favorable or derogatory, if it were known that the contents would be shown to the individual concerned.

If an attorney is not rated, he may pursue three courses of action.²⁷ First, at his request an initial or review investigation will be made. The A.B.A. Committee on Ethics has stated that a lawyer can give data to a law list to enable it to rate him, but *Martindale-Hubbell* insists that "solicited endorsements or testimonials . . . cannot be given the same consideration as confidential reports obtained by us."²⁸ Secondly, an attorney may file a complaint with the Standing Committee on Law Lists. But the committee has the power only to *approve* the manner of rating and to deny a certificate of compliance if the rating was not made in accordance with approved procedures. In an individual case, the attorney who feels an error has been made in his rating would have to establish a *prima facie* case of error without access to the data upon which the rating was based. Finally, the attorney may request that his name be deleted from the *Martindale-Hubbell* listings.

Other Remedies—The Fair Credit Reporting Act of 1971

Since the attorney probably would never be allowed to check the

²⁶ *Hearings on S. 823 Before the Subcomm. on Financial Institutions of the Senate Comm. on Banking & Currency*, 91st Cong., 1st Sess. (1969); V. PACKARD, *THE NAKED SOCIETY* (1964); A. WESTIN, *PRIVACY AND FREEDOM* (1962); Karst, *The Files: Legal Controls over the Accuracy and Accessibility of Stored Personal Data*, 31 *LAW & CONTEMP. PROB.* 342 (1966).

²⁷ Harnsberger, *supra* note 13, at 36.

²⁸ *MARTINDALE-HUBBELL LAW DIRECTORY*, Vol. I, at vi (1973).

accuracy and completeness of the information utilized to rate him, the above remedies are inadequate. However, *Martindale-Hubbell* could be forced to disclose this information if it were shown that these ratings fall within the definition of "credit reports" as contemplated by Congress in the Fair Credit Reporting Act ²⁹ [hereinafter referred to as FCRA]. The purpose of the Act is to ensure that reports containing inaccurate and irrelevant information will not be used as a factor in determining an individual's eligibility for credit, employment, or insurance. This is accomplished by regulating all organizations that collect and disseminate such information.³⁰ A "consumer reporting agency" is defined as any person who:

... for monetary fees ... regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties³¹

The FCRA is generally applicable only to information collected or reported by consumer reporting agencies, a term broadly construed to encompass any organization that gathers or reports information about individuals.³² *Martindale-Hubbell* is a "person"³³ who regularly engages in collecting and evaluating information on consumers, as that term is defined in the Act.³⁴ Therefore, it falls within the definition of a consumer reporting agency if it gathers and evaluates this information for the purpose of furnishing a "consumer report." Under the FCRA, a "consumer report" is

... any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.³⁵

In addition, the information must be "used or expected to be used in whole or in part or collected in whole or in part"³⁶ for the purpose of

²⁹ Fair Credit Reporting Act §§ 601-22, 15 U.S.C. §§ 1681-1681t (1970) (enacted as a part of the Act of Oct. 26, 1970, Pub. L. No. 91-508, 84 Stat. 114) [hereinafter cited as FCRA]. For a legislative history and statement of purpose of Pub. L. No. 91-508, see U.S. CODE CONG. & AD. NEWS 4394 (1970).

³⁰ FCRA § 602(b), 15 U.S.C. § 1681b (1970) (statement of congressional purpose).

³¹ FCRA § 603(f), 15 U.S.C. § 1681a(f) (1970).

³² See 4 C.C.H. CONSUMER CREDIT GUIDE ¶ 11,302, at 59,784 (1971) (a compilation of informal F.T.C. Staff Opinions issued by the Federal Trade Commission to assist in the interpretation of the FCRA).

³³ The term "person" is defined as "any individual, partnership, corporation," FCRA § 603(b), 15 U.S.C. § 1681a(b) (1970). Since *Martindale-Hubbell* is a New Jersey corporation it is a "person" within the meaning of the Act.

³⁴ Consumer is defined by the Act as "an individual." FCRA § 603(c), 15 U.S.C. § 1681a(c) (1970).

³⁵ FCRA § 603(d), 15 U.S.C. § 1681a(d) (1970).

³⁶ *Id.*

establishing the consumer's eligibility for 1) personal (not business) credit or insurance, 2) employment purposes, or 3) other purposes authorized in Section 1681b of the Act.³⁷

Under this definition, the rating system of *Martindale-Hubbell* qualifies as a consumer report. The ratings are written reports bearing on an attorney's "credit standing" (the symbols of "g," "f," and "m" rate an attorney's promptness in paying his bills) and "credit capacity" (the scale of 1-7 is used to denote an attorney's financial worth). The information is "collected" by *Martindale-Hubbell* and "used" by its subscribers to establish an attorney's eligibility for "employment purposes."³⁸ A forwarder of legal business will consult *Martindale-Hubbell* ratings and business cards to select an attorney who appears to be better qualified for a given job than other attorneys in his community.

Special rules apply to "investigative consumer reports."³⁹ These reports contain subjective information derived from third party interviews with friends, neighbors, and associates of an individual concerning his character, general reputation, personal characteristics, or general mode of living. Consumer investigative reports are treated in the same manner as credit reports except that the individual must be given notice that he is the subject of such a report.⁴⁰ The "v" recommendations rating in *Martindale-Hubbell* is the result of a consumer investigative report since subjective information concerning the personal and business reputation of an attorney is collected from his associates.

Once it has been determined that *Martindale-Hubbell* is a credit reporting agency and that it issues credit reports, then it must comply with the disclosure requirements of the FCRA.⁴¹ The FCRA requires

³⁷ *Id.*

³⁸ 4 C.C.H. CONSUMER CREDIT GUIDE ¶ 11,305, at 59,788 (1971) (persons who compile reports on individuals for employment purposes are also covered by the Act). The term "employment purposes" when used in connection with a consumer report is defined as a report used for the purposes of evaluating an individual for employment, promotion, reassignment or retention as an employee. FCRA § 603(b), 15 U.S.C. § 1681a(h) (1970).

³⁹ FCRA § 603(e), 15 U.S.C. § 1681a(e) (1970). A consumer investigative report is a type of credit report which contains any type of subjective information. 4 C.C.H. CONSUMER CREDIT GUIDE ¶ 11,304, at 59,787 (1971).

⁴⁰ The law requires that persons who procure or cause to be prepared investigative reports give notice to the consumer in writing that such a report is being made and that the consumer has a right to make a written request for a disclosure of the nature and scope of the investigation to be made. FCRA § 606(a)(1), 15 U.S.C. § 1681d(a)(1) (1970). But this notice requirement does not apply if the report is for employment for which the individual has not applied. FCRA § 606(a)(2), 15 U.S.C. § 1681d(a)(2) (1970). This exception would seem to apply to *Martindale-Hubbell* since its reports are used by forwarders to determine if an attorney is suitable for employment for which he has not applied.

⁴¹ See generally FCRA § 609, 15 U.S.C. § 1681g (1970) (disclosure to consumers).

that every credit reporting agency shall, upon request, payment of a nominal fee and proper identification,⁴² disclose to an individual clearly and accurately the "nature and substance"⁴³ of all information—including the sources—in that person's files. It places the burden on the credit reporting agency of ensuring that the information is understood by the individual.⁴⁴ A mere summary of the information will not suffice. The individual must be informed of *everything* in the file, no matter how trivial.⁴⁵ There are, however, two exceptions to this disclosure requirement. The individual need not be shown any medical information in his file,⁴⁶ and the sources of investigative consumer reports need not be divulged.⁴⁷

If a question of accuracy or completeness of an item of information arises after the attorney has seen his file, *Martindale-Hubbell* would be required, within a reasonable period of time, to reinvestigate that information and record its current status in the attorney's file.⁴⁸ If the information is found to be erroneous or cannot be verified upon reinvestigation it must be purged from the files and subscribers must be notified that the rating was inaccurate.⁴⁹ This could be accomplished with little burden on *Martindale-Hubbell* by simply including the corrected rating, and a business card if the attorney desires and so qualifies, in its next annual edition.

If a rating is based on an investigative report, adverse information cannot be used in a second report without being verified.⁵⁰ For example, if *Martindale-Hubbell* does not rate an attorney because of an adverse report received from a local bar association on the conduct or reputation of an attorney, it must reinvestigate and verify the continuing veracity of this report before it may publish another edition without rating the attorney.

Compliance with the FCRA is enforced in two ways. First, the Federal Trade Commission is empowered to use its cease-and-desist

⁴² The disclosures may be made to an individual upon proper identification in person or over the telephone. FCRA § 610(b)(1), (2), 15 U.S.C. § 1681h(b)(1), (2) (1970).

⁴³ FCRA § 609(a)(1), 15 U.S.C. § 1681g(a)(1) (1970).

⁴⁴ FCRA § 610(c), 15 U.S.C. § 1681h(c) (1970).

⁴⁵ 4 C.C.H. CONSUMER CREDIT GUIDE ¶ 11,306(4)(a), at 59,793 (1971).

⁴⁶ FCRA § 609(a)(1), 15 U.S.C. § 1681g(a)(1) (1970).

⁴⁷ The sources used in an investigative credit report need not be disclosed except, in the event suit is brought under the Act, such sources shall be available under appropriate discovery procedures. FCRA § 609(a)(2), 15 U.S.C. § 1681g(a)(2) (1970).

⁴⁸ FCRA § 611(a), 15 U.S.C. § 1681i(a) (1970).

⁴⁹ FCRA § 611(d), 15 U.S.C. § 1681i(d) (1970).

⁵⁰ The requirement of reverifying adverse information in an investigative credit report does not include adverse information that is a matter of public information. FCRA § 614, 15 U.S.C. § 1681l (1970).

power and any other procedural, investigative, or enforcement power authorized under the FTC Act to ensure compliance with the FCRA by credit reporting agencies and their subscribers.⁵¹ Secondly, an individual may bring a private action in Federal District Court for willful noncompliance, and there is no ceiling on the amount of punitive damages he may seek.⁵² A civil suit for negligent noncompliance may also be brought if actual damages can be proved.⁵³

Conclusion

In view of the advantages to rated attorneys and the potential economic detriment to those who are not rated, the accuracy and fairness of *Martindale-Hubbell's* legal ability ratings are of vital interest to all attorneys. At present, *Martindale-Hubbell* regards the information used in making its ratings as confidential. This comment has suggested that an attorney who is dissatisfied with his rating might utilize the FCRA to force *Martindale-Hubbell* to disclose the nature and substance of all information concerning him in its files. If the information is erroneous, it would have to be corrected and the attorney's rating adjusted accordingly.

The fact remains, however, that rated attorneys enjoy an advantage over those who do not qualify for a rating. This raises a more fundamental question. Are ratings really necessary? Do they promote the public interest or do they tend to degrade the legal profession? The argument for allowing legal ability ratings is that forwarders of legal business need information concerning an attorney's legal ability in order to make a rational decision about whether to retain him. It is obvious, however, that not all attorneys with high ratings are good attorneys just as it is probable that not all attorneys with no ratings are poor attorneys. If ratings were abandoned, an equally rational decision on retaining an attorney could be made by reviewing his experience, educational background, areas of specialty, and major clients represented as set forth in the biographical section of *Martindale-Hubbell*. Without ratings, all attorneys who desire would be listed and the forwarder could make a decision based on his own prejudices, rather than on any prejudices that *might* be reflected in *Martindale-Hubbell's* ratings.

Stuart M. Vaughan Jr.

⁵¹ FCRA § 621(a), 15 U.S.C. § 1681s(a) (1970).

⁵² FCRA § 616, 15 U.S.C. § 1681n (1970).

⁵³ FCRA § 617, 15 U.S.C. § 1681o (1970).

